IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No. 4428 of 2004

Smt.Meena Sunil Joshi ..Petitioner

vs.

1. Shri Ganesh Rugna Seva
Mitra Mandal and others ..Respondents

Smt.H.Geeta Menon for petitioner (absent)
Shri P.M.Mengane for respondent Nos.1 and 2
Shri M.H.Solkar, A.G.P. for State.

CORAM: S.B.MHASE J.
8th August,2006

P.C.

. Heard the learned Counsel for the respondents. None appears for petitioner.

2. Rule. Returnable forthwith.

3. The petitioner was in service with the respondent No.2 School. The said school is for mentally retarded students. After removal from service, the petitioner has issued two notices though he ought to have filed the appeal. There was a delay of 8 months. It was not condoned by the School Tribunal by order dated 9th April, 2002. Therefore the present petition.

4. It appears that there was a dilemma in the mind of the Advocate initially as to whether MEPS Rules are applicable or not and, therefore, inadvertantly

he had issued notices under section 80 of the Code of Civil Procedure. However, he got information that in Writ Petition No.1918 of 1990 decided by this Court on 4th August, 2000 wherein it was held that the MEPS Rules are applicable. Thereafter the petitioner has approached the School Tribunal. This itself is sufficient cause for condonation of delay. Apart from the above, since the petitioner was removed from service she was pennyless and had no capacity to file the legal proceedings as against the respondents. On that ground also the petitioner has prayed for condonation of delay. In fact in such matters if somebody is losing his bread and butter as a result of order of termination, the School Tribunal should be sympathetic and liberal in condoning the delay. This is a fit case wherein sufficient cause was available for condonation of delay. However, the School Tribunal has only recorded order that there is a long delay and refused to condone the same. The School Tribunal should have looked into all these aspects. Without commenting much upon the aspect this Court finds that this is a fit case where the School Tribunal should have allowed the application for condonation of delay. Therefore, the order dated 9th April, 2002 passed by the School Tribunal in Appeal No.33 of 2002 is hereby quashed and set aside. The School Tribunal is hereby directed to dispose of the said appeal on

merits within a period of two months from the date of receipt of the order of this Court.

5. Rule is made absolute accordingly with no order as to costs.

(S.B.MHASE J.)